

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

OCTOBER TERM, 1904.

No. 1454.

No. 1454. SPECIAL CALENDAR.

ARTHUR N. MELOY, EXECUTOR OF THE ESTATE OF
ISABELLA L. NOURSE, DECEASED, APPELLANT,

vs.

WILLIAM A. MELOY.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

INDEX.

	Original.	Print.
Caption	<i>a</i>	1
Directions to clerk for preparation of transcript.....	1	1
Declaration.....	2	2
Affidavit of Arthur N. Meloy.....	4	3
Particulars of demand.. ..	6	4
Pleas.....	7	4
Affidavit of William A. Meloy.....	8	5
Motion for better bill of particulars.....	9	5
Defendant required to furnish an itemized bill of particulars.....	10	6
Bill of particulars.....	11	6
Bill of particulars.....	16	10
Motion for judgment.....	17	11
Affidavit in support of pleas.....	19	12
Motion for judgment overruled.....	22	14
Special appeal allowed.....	23	14
Citation.....	24	15
Memorandum as to deposit in lieu of appeal bond.....	25	15
Appellee's directions for preparation of transcript.....	25	16
Clerk's certificate.....	26	16

In the Court of Appeals of the District of Columbia.

ARTHUR N. MELOY, Executor, &c., Appellant,
vs.
WILLIAM A. MELOY. } No. 1454.

a Supreme Court of the District of Columbia.

ARTHUR N. MELOY, Executor of Isabella L.
Nourse, Deceased, Plaintiff,
vs.
WILLIAM A. MELOY. } No. 46720. At Law.

UNITED STATES OF AMERICA, } ss:
District of Columbia,

Be it remembered, that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had, in the above-entitled cause, to wit:

1 *Designation for Transcript on Appeal.*

Filed July 19, 1904.

In the Supreme Court of the District of Columbia.

ARTHUR N. MELOY, Executor of Isabella L.
Nourse, Deceased,
vs.
WILLIAM A. MELOY. } At Law. No. 46720.

To the clerk of the supreme court of the District of Columbia:

The plaintiff, by his attorneys, designates the following parts of the record in the above entitled cause as a transcript of the record on appeal allowed by the order of the Court of Appeals filed in this cause on June 22, 1904, to wit:

1. Declaration and affidavit filed therewith on January 21, 1904.
2. Pleas and affidavit of defendant filed February 19, 1904.
3. Motion of plaintiff for bill of particulars filed March 9th, 1904.

2 ARTHUR N. MELOY, EXECUTOR, ETC., VS. WILLIAM A. MELOY.

4. Order requiring the defendant to furnish bill of particulars filed March 31st. 1904.

5. Bill of particulars filed May 2nd. 1904.

6. Subsequent bill of particulars filed May 12th. 1904.

7. Motion of plaintiff for judgment against defendant under 73rd. rule filed May 12th, 1904.

2 8. Order of court overruling plaintiff's motion for judgment filed June 3rd, 1904.

9. This designation.

COLE & DONALDSON,
Attorneys for Plaintiff.

William A. Meloy.

DEAR SIR: Please take notice that we have designated the above parts and parcels of the record in the above entitled cause to make up the transcript of record on appeal from the order of Mr. Justice Barnard passed June 23rd, 1904, overruling our motion for judgment.

COLE & DONALDSON,
Attorneys for Plaintiff.

Service of copy of above accepted this sixteenth day of July, 1904.

Declaration.

Filed January 21, 1904.

In the Supreme Court of the District of Columbia.

ARTHUR N. MELOY, Executor of the Estate of Isabella L. Nourse, Deceased, Plaintiff, vs. WILLIAM A. MELOY, Defendant.	}	At Law. No. 46720.
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3 The plaintiff, Arthur N. Meloy, is the duly qualified executor of the estate of Isabella L. Nourse, deceased, having been duly appointed as such executor by the supreme court of the District of Columbia, and sues the defendant, William A. Meloy, for money payable to the plaintiff by the defendant, for money lent by the said Isabella L. Nourse during her lifetime to the defendant, and for money paid by the said Isabella L. Nourse during her lifetime for the defendant at his request, and for money received by the defendant for the use of the said Isabella L. Nourse, and for money found to be due from the defendant to the said Isabella L. Nourse on accounts stated between them.

And the plaintiff claims the sum of five hundred dollars (\$500.00), with interest at the rate of six per cent. per annum from the twenty-

first day of April, 1902, according to the particulars of demand hereto annexed, besides costs of this suit.

COLE & DONALDSON,
Attorneys for Plaintiff.

The defendant is to plead hereto on or before the twentieth day, exclusive of Sundays and legal holidays, occurring after the date of service hereof; otherwise judgment.

COLE & DONALDSON,
Attorneys for Plaintiff.

4 DISTRICT OF COLUMBIA, ss :

I, Arthur N. Meloy, being first duly sworn according to law, make oath and say that I am the duly appointed and qualified executor of the estate of Isabella L. Nourse, deceased, having been appointed such by the supreme court of the District of Columbia, holding a probate court, and am the plaintiff named in the foregoing declaration, wherein William A. Meloy is defendant, which declaration is hereby referred to and made part hereof. As such executor I have a good cause of action against said defendant for the sum of five hundred dollars (\$500.00), with interest as set forth in said declaration, and in the bill of particulars, filed herewith, and likewise made part hereof, which cause of action is based upon the following grounds: On, to wit, the 18th day of January, 1902, the said Isabella L. Nourse died, leaving large and valuable property, including money, of a large amount in the possession, and under the control of the said defendant, who had for many years prior to such decease acted as the trustee and agent for the said Isabella L. Nourse. On the twenty-first day of April, 1902, said defendant had in his possession belonging to said estate the sum of \$2530.87 and on to wit, said date, paid to the collector appointed for said estate the sum of \$2030.87, still retaining the sum of \$500, which he yet retains and refuses to pay to plaintiff, although requested so to do. Said defendant has admitted that he has said sum of money in his hands belonging to said estate, but declines and refuses to pay same, or any part thereof, to plaintiff. Wherefore, affiant
5 says that there is now due and payable to him as executor, as aforesaid, from said defendant, the sum of \$500., with interest from the twenty-first day of April 1902, exclusive of all set offs and just grounds of defence.

ARTHUR N. MELOY.

Subscribed and sworn to before me this 4th day of January, 1904.

WALTER F. DONALDSON,
Notary Public, D. C.

[SEAL.]

4 ARTHUR N. MELOY, EXECUTOR, ETC., VS. WILLIAM A. MELOY.

6 *Particulars of Demand.*

WASHINGTON, D. C., *November 13, 1903.*

William A. Meloy, Dr., to Arthur N. Meloy, executor of estate of
Isabella L. Nourse, deceased.

Money received for the use and benefit of said deceased—\$500.00.
Interest from April 21, 1902,—

7 *Pleas.*

Filed February 19, 1904.

In the Supreme Court of the District of Columbia.

ARTHUR N. MELOY, &c.,	} At Law. No. 46720.
vs.	
WILLIAM A. MELOY.	

Now comes the defendant in the above entitled action and answering the declaration therein, for defense thereto, and to the entire claim therein made, says, he is not and never was indebted as therein alleged.

And for second and further plea to said declaration said defendant says the same cause of action in said declaration set forth was heretofore at the suit of the then legal representative of the said estate duly heard, tried and determined on its merits, and denied by a court having jurisdiction of the matter and of the parties which adjudication was never appealed from, set aside or vacated.

And for setoff and counterclaim herein the said defendant avers and charges that at the time of the death of the said Isabella, in said declaration mentioned, she, the said Isabella, was justly and legally indebted to him this defendant for money payable to him by said Isabella, to wit:—for money lent by him to her in her life time, at her request,—and for money paid out by him in her life time for her benefit at her request; and for materials furnished by him for her benefit at her request—and for labor and professional services as an attorney at law and for legal counsel and advice in the drafting of wills and testaments and in and about
8 divers proceedings at law and in equity for her benefit and at her request, for all which proved for payment according to the statute in such case made and provided, he claims judgment against the said estate in the sum of one thousand dollars, besides costs.

WM. A. MELOY,
Att'y for Pl'tff.

DISTRICT OF COLUMBIA, ss :

William A. Meloy, the defendant in the action above entitled, having been duly sworn, makes oath and for affidavit of defense says, he denies the right of the plaintiff in the title of the foregoing pleas mentioned to the claim in his declaration set forth, and to any part thereof.

And for specific statement of the grounds of his defense said defendant further deposes and says,—At the time of her death the said Isabella L. Nourse was indebted to him to an amount largely in excess of the \$500 in said declaration sued for, as just and reasonable compensation for professional services rendered by him as her attorney, and for expenditures made in and about the same at her special request, and for her benefit, large part thereof in the prosecution of a proceeding in equity pending at the time of her death and which was abated thereby—that all the moneys in his hands at any time, were collected and received by him in his capacity of attorney at law representing and maintaining her interest and he has a valid and sufficient attorney's lien on said moneys and claims and has a legal right to hold and retain the entire amount aforesaid claimed in the declaration aforesaid.

WM. A. MELOY.

9 Subscribed and sworn to this 19th day of February, 1904,
before me.

J. R. YOUNG, *Clerk*,
By W. E. WILLIAMS, *Ass't Clerk*.

Motion for Better Bill of Particulars.

Filed March 9, 1904.

In the Supreme Court of the District of Columbia.

ARTHUR N. MELOY, Executor of the Estate of Isabella L. Nourse, Deceased, Plaintiff, vs. WILLIAM A. MELOY, Defendant.	}	At Law. No. 46720.
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Now comes the plaintiff, by his attorneys, and moves the court to require the defendant to furnish him a better bill of particulars, showing the items comprising his plea of set off heretofore filed to the declaration in the above entitled cause.

COLE & DONALDSON,
Attorneys for Plaintiff.

To William A. Meloy, Esq.

DEAR SIR: Please take notice that on Friday, the 18th day of March, 1904, at ten o'clock a. m., or as soon thereafter as counsel

10 can be heard, we will call the above motion to the attention
of Mr. Justice Barnard, holding circuit court No. 1, for the
action of the court thereon.

COLE & DONALDSON,
Attorneys for Plaintiff.

Service of copy of above notice acknowledged this — day of March, 1904.

Supreme Court of the District of Columbia.

THURSDAY, *March* 31, 1904.

Session resumed pursuant to adjournment, Mr. Justice Barnard, presiding.

ARTHUR N. MELOY, Executor, Plaintiff,
vs.
WILLIAM A. MELOY, Defendant.

} At Law. No. 46720.

Upon consideration of the motion of the plaintiff to require the defendant to furnish a bill of particulars, it is this 31st. day of March, A. D. 1904, ordered that the defendant furnish the plaintiff, or his attorneys, within three days from this date, an itemized bill of particulars showing each item comprised in his plea of setoff heretofore filed to the declaration in this cause, and the respective dates upon which defendant claims to have paid out money for the benefit of Isabella L. Nourse, deceased, and the respective dates upon which he claims to have rendered the legal services referred to in his said plea and of what in detail said services consisted.

JOB BARNARD, *Justice.*

11 *Bill of Particulars.*

Filed May 2, 1904.

In the Supreme Court of the District of Columbia.

ARTHUR N. MELOY, Ex'r, &c., }
 vs. } At Law. # 46720.
 WILLIAM A. MELOY. }

For bill of particulars under his plea of counterclaim in this action, and as compliance with the order of the court therein passed on April 22, 1904, the undersigned refers to and makes part hereof, as if herein repeated, his former bill of particulars as heretofore furnished the plaintiff's attorneys on the 3rd day of March 1904 and thereafter with the clerk of this court on the 22nd. inst.—and in further detail of the bill aforesaid states, that the therein mentioned draft of wills and codicils were as follows, viz :

Drawing of her will.....	April 14, 1891.
Ditto.	Sept. —, 1893.
Ditto.	Dec. 8, 1893.
Ditto.	Aug. 31, 1894.
Ditto.	Jan'y —, 1900.

His said services in equity cause # 16,468 of the sup. court D. C. were rendered in Sept. *et seq.* 1895 as appearing in the record and docket entries in said cause hereby referred to.

His said services in equity cause # 16,942 of the sup. court D. C. were rendered in Jan'y 1897 as appears in the record and docket entries of said cause hereby referred to.

His said services in equity cause 18348 supreme court
12 D. C. were rendered as largely appears in the record papers on file, and by the docket entries in said cause beginning with the 26th. day of May 1897, and continuing thereafter until the death of said Isabella L. Nourse, during which period the conduct of said cause, besides many small items of payments which he cannot now recall by exact date and amount, he necessarily for her benefit paid out in moneys for said decedent as her attorney.

May	26, 1897.	To the clerk of the court.....	\$10.00
May	27, 1897.	A notary fee.....	25
		Fee to U. S. marshal.....	4.00
April	17, 1899.	Paid recorder of deeds for certified copy of deed for ev.....	3.97
		And to the U. S. marshal, on subp.....	.50
Nov.	11, 1899.	Paid examiner for taking evidence.....	25.00

And further as follows chronologically in detail.

1897, May 25. On rumor that Pole was furtively committing waste on the property of Mrs. Nourse at Deanwood I went out by rail to learn the facts; spent the a. m. and 25 cents car fare. In the evening drove out again with horse and carriage.

May 26. That night and the following day I prepared bill in eq. for injunction, assessment of damages, accounting, etc.,—paid Notary Public O'Neal his fee, 25 cts. for taking client's affidavit of verification and submitted case to Cox, J. for injunction; filed bill; paid clerk deposit fee \$10.

May 27. Provided surety and prepared and filed client's undertaking, approved,—obt'd preliminary restraining order and to show cause June 3d /97.
Paid marshal his fees \$4.00

June 3. Attended court and obt'd inj. p. l. with order agt. def't not served, to show cause &c. June 17.

June 17. Att'd court and hearing postponed to June 21.

13

- 1897, June 21. Argued case with Hon. R. E. Doan opposing counsel, and injunction established.
- July 8. By agreement with Mr. Doan drove to the Deanwood machine shops to meet him and def't T. C. Pole and look over the premises. Spent most of day in making an inventory of engines and machinery,—and determining what was and what was not under the injunction as fixtures, and pointing out what might be removed. Agreed on settlement of which details were to be arranged between Mr. Doan and myself on his return to Washington.
- July 16. Not having yet received the keys, visited the machine shop for supervision.
- Nov. —. Received notice from Mr. Doan that he would no longer act for def'ts Pole and Co.
- Nov. 17. Prepared and served motion for striking out of answers.
- Nov. 22. Argued same—made and filed copies of deeds as exh.
- Dec. —. Att'd court in cause.
- Dec. 8. Opposed motion for vacation of injunction.
- Dec. 9. Filed amended bill with new undertaking on which the court granted restraining order.
- Dec. 11. Served copy of amended bill.
- Dec. 15. Argued demurrer of B. C. Pole.
Prepared and filed aff't of C. C. Duncanson.
- Dec. 23. On learning that the court was reported as having on the 21st inst. in my absence made an order dissolving the injunction, I prepared papers and argument for re-hearing and vacation of such orders; submitted same to Mr. Justice Cox who at once vacated such former order as having been submitted to and signed by him without reading and as in fact contrary to his decision and instructions. Took his order of vacation; procured copies; made service of one on the defendants' attorneys, and employed agent to serve the other on the parties engaged in tearing out and removing the fixtures.

14

- 1897, Dec. 25. Went with horse and carriage to the machine shops to learn the condition.
- Dec. 29. Made second visit and prepared affidavits and motion for attachment of def't Pole for contempt of the order of court. Took order returnable Jan'y 5, 1898.

- 1898, Jan'y 5. Presented and argued matter to the court, and attachment denied on the unsworn statement of the def't's att'y that "he had acted in good faith, believing the judge had intended to dissolve the restraining order.
Obtained leave of the court to file supplemental bill for such further damages and for an accounting.
- Jan'y 17. Filed supplemental bill.
" 20. Filed replication to answer.
M'ch 31. Set demurrer for hearing.
June 13. Dem'r argued and overruled.
June 24. Filed exceptions to answer—July set same for hearing.
Nov. 23. Argued exceptions.
- 1899, Feb'y 28. Att'd court and took order fixing 30 days for taking of evidence.
" M'ch 25. Engaged before examiner in taking evidence.
" 26. Procured six photographic views showing condition of premises after being raided. Procured a draughtsman to make all measurements and a scale diagram of the interior etc. of the shops, attending personally to the work.
M'ch 28. Att'd examiner but case postponed.
" 30. April 1, and April 4 engaged (4 days) in taking evidence before examiner.
Before and during this period was engaged four or more days in seeking and interviewing witnesses material to testify on behalf of the plaintiff.
April 17. Paid recorder of deeds for copies cert'f'd for evidence for pl't'ff in the case, \$.397.
" 21. Further engaged in taking evidence.
" 22. Ditto.
Seven days, five witnesses.
- 15
- 1899, May 29. Engaged at the taking of evidence for defence and cross examining witnesses.
July 11. And again July 24 filed exceptions to evidence for the defence.
Sept. 26. Obt'd order extending time for ev. in rebuttal.
Oct. 23
and
Oct. 30,
Nov. 9 Taking rebuttal ev.
and
Nov. 10.
Paid marshal fee for subpoenaing witness for pl't'ff .50.
Paid examiner for taking plaintiff's evidence, \$25.00.
Opposed motion of def't to strike out ev. of Hanks.

Jan'y 9. Set cause for trial.
Engaged six days in review of case and evidence
in preparation for trial.
March 14. Trial begun.
March 15. Engaged in trial.
March 17. Prepared affidavit and motion for suppressal of dep-
ositions of defense tempered with and irregularly
returned.
April 27. Cause referred to auditor to collate the evidence,—
ascertain and state damages.
May —. Attended auditor on such reference, put in the evi-
dence for plaintiff and began the cross examina-
tion of def't T. C. Pole. On request of his att'y
the hearing was adjourned for further cross-ex-
amination.

Respectfully submitted.

WM. A. MELOY.

16

Bill of Particulars.

Filed May 12, 1904.

WASHINGTON, May 6, 1904.

Messrs. Cole and Donaldson :

In response to your suggestion of still other particulars of counter-claim in # 46,720 at law, S. C. D. C.—for further detail of profes-
sional services covered by the 11th item (\$100.) in the bill of par-
ticulars filed on Ap'l 22, 1904 this defendant states as follows :

That, at various times, the particular dates of which he is not
now able to give exactly, during the years 1893—M'ch 25,—27, to
1899, he employed among others, H. J. Caldwell Esq., attorney at
law of Benton Co. and Chicago, Ill. to make examination of title to
all lands in that Co., once standing in the name of Wm. Nourse, or
of Pairo and Nourse ; also the recorder and the treasurer of said
Benton Co., and of other counties in that State as well as of Iowa,
Minnesota, Wisconsin, to ascertain whether or not the right of dower
of Mrs. Nourse had been legally given away, abandoned by quit
claim, or cut off by legally sufficient tax sale.

I engaged also the services of lawyers in Ida Co. Iowa, in Minne-
sota, Wisconsin, in Minneapolis, St. Paul, Sioux City Falls, and St.
Croix, to make inquiry and examination of records in their respect-
ive localities ;—corresponded with, attended upon, retained, con-
sulted and advised with attorneys in said places,—including Hon.

17 Thomas J. Updegraff M. C. from Iowa, George W. Jones ex
U. S. S., Mr. ——— Smith of Alexandria Va., Mr. Swann of Sioux
City Falls, and many others involving a large expenditure of
time, travel, correspondence, and money of which no separate and
specific account was kept at the time.

Respectfully,

WILLIAM A. MELOY.

Motion for Judgment.

Filed May 12, 1904.

In the Supreme Court of the District of Columbia.

ARTHUR N. MELOY, Executor of Isabella L.	} At Law. No. 46720.
Nourse,	
v.	
WILLIAM A. MELOY.	

Comes now the plaintiff, by his attorneys, and moves the court for judgment against the defendant under the 73rd rule of this court for want of a sufficient affidavit to his pleas hereinbefore filed to the declaration in this case, for the sum of five hundred dollars (\$500.) as in said declaration claimed less the sum of fourteen dollars and nine cents (\$14.09), which the plaintiff hereby admits is due and owing to the defendant in payment of the following items in his bill of particulars named, to wit:

1900, Jan'y 20.	Payment of premium on her ins. policy # 30351 in the Montg. M. F. Ins. Co.....	\$2.83
1902.	Pay't of D. C. tax on lots at Lincoln for 1900-1.....	.78
18		
1902, Jan'y 20.	Ditto for 1901-2.....	.73
	P'd for ad's in Star and Post for investment of her money.....	5.75
"	2/3. P'd for water bag	1.00
"	2/18. Cash furnished exe. to pay for notice of de- cedent's death.....	2.00
"	2/19. Do. for ruching to dress body.....	1.00
		<hr/> \$14.09

together with such costs as may have accrued to the defendant to date.

COLE & DONALDSON,
Attorneys for Plaintiff.

To William A. Meloy, Esq.

DEAR SIR: Please take notice that we will call the above motion to the attention of Mr. Justice Barnard, holding circuit court No. 1, on Friday, the 20th day of May, 1904, for the action of the court thereon.

COLE & DONALDSON,
Attorneys for Plaintiff.

Service of copy of above motion and notice acknowledged this 10th. day of May, 1904.

Affidavit in Support of Plea.

Filed May 20, 1904.

In the Supreme Court of the District of Columbia.

ARTHUR N. MELOY, Ex'r, &c.,	}	No. 46720. At Law.
vs.		
WILLIAM A. MELOY.		

DISTRICT OF COLUMBIA, ss :

William A. Meloy being duly sworn, deposes and says he is the defendant in the above entitled action :

That during upwards of 30 years last past affiant has been an attorney at law, member of the bar of this court :

That during the lifetime of the late Isabella L. Nourse, named in the declaration herein, she engaged and employed affiant in his said professional capacity as her attorney and legal counsellor to attend to her affairs, business and interests :

That under and in pursuance of such engagement and employment, at her request, and for her benefit, at divers times between the summer of 1893 and continuously thereafter to the time of her death he so rendered her many and very valuable professional and legal services,—in particular, among other things, in, at her request drafting for her certain last wills, testaments and codicils; advising her in what ways in respect to the disposition of her property and the securing accomplishment of her wishes in respect thereto she could best effectuate the same :

20 Also in for a long time making widely extended research and examination through the Western States to ascertain her real estate interests and whether parted with or extinguished by tax sales, involving wide correspondence and employment of tax officers, recorders of deeds, examiners of title, estimators of values, etc., and consultation with and employment of local attorneys:—

Also in defending her interests in certain suits in eq. in the supreme court D. C.

Also, at her request and for her benefit, in May 1897 preparing and filing her bill of complaint on the equity side of said court, to wit. eq. No. 18348 to enjoin waste, removal and destruction of fixtures of very great value belonging to her; and for an accounting, in the due conduct and management of which it necessarily and unavoidably devolved upon affiant to advance all fees and costs which he accordingly did to an aggregate amount of about \$50.—and to find, interview and procure the attendance and the testimony of the material witnesses to maintain the rights of his said client in said cause, all of which by reason of her extreme age and of her

sex was devolved upon him to do up to the time when a decree for such accounting, as prayed, had been rendered and the said accounting was pending before the auditor of this court, and his said client died whereby affiant's power to longer act in said cause as attorney was abated.

Affiant further says that his professional services in said last mentioned cause, apart from the rest, were fully fairly and reasonably worth not less than \$800.—that nothing whatever had been paid him on account thereof up to the time of his said client's death, but that he had never engaged, or been asked to, or in any way intimated to his said client that he would render such services without compensation;—on the contrary, he expected such compensation when and so soon as his said services should have been closed.

That during the period of his professional services aforesaid, and necessarily incidental thereto, there had come into affiant's possession, either directly from his said client, or with her direction and assent, a considerable amount of valuable personal property, including books, papers, notes, mortgages, deeds of trust, moneys, etc., which in large part remained in his possession as her attorney at the time of her death;

Wherefore, she then being so as aforesaid justly and legally indebted to him, affiant, believing that he had a legal right to retain possession of *all* the said property by virtue of his said attorney's lien until settlement and payment of all his equitable and legal claims aforesaid had been actually made, nevertheless, through desire to promote the interests of all her heirs by a speedy distribution as full as possible, affiant retained possession only of the sum of \$500. which is the identical sum of money now in this action sought to be recovered from affiant while no part whatever of his indebtedness aforesaid has been paid or tendered.

And so affiant again denies the right of said plaintiff to recover the claim in his declaration herein set forth, or any part thereof.

WM. A. MELOY.

Subscribed and sworn to this 20th day of May A. D. 1904.

J. R. YOUNG, *Clerk*,
By W. E. WILLIAMS, *Ass't Clerk*.

14 ARTHUR N. MELOY, EXECUTOR, ETC., VS. WILLIAM A. MELOY.

22 Supreme Court of the District of Columbia.

FRIDAY, *June* 3, 1904.

Session resumed pursuant to adjournment, Mr. Justice Barnard, presiding.

* * * * *

ARTHUR N. MELOY, Adm'r, Plaintiff, }
vs. } At Law. No. 46720.
WILLIAM A. MELOY, Defendant. }

Upon hearing the motion of the plaintiff for judgment under the 73rd. rule, it is considered that said motion be, and hereby is, overruled.

23 *Order Allowing Special Appeal.*

Filed June 22, 1904.

Court of Appeals of the District of Columbia.

No. 190, Original Docket, April Term, 1904.

ARTHUR N. MELOY, Executor of the Estate }
of Isabella L. Nourse, Deceased, Petitioner, } At Law. No. 46720.
vs. }
WILLIAM A. MELOY. }

On consideration of the petition of Arthur N. Meloy, executor, for the allowance of a special appeal from an order of the supreme court of the District of Columbia, entered therein on the 3d day of June, 1904, overruling a motion for judgment under the 73d rule of said court, it is now here ordered by the court that said appeal be and the same is hereby allowed.

June 22, 1904.

M. F. MORRIS,
SETH SHEPARD,
Associate Justices.

A true copy.

Test: HENRY W. HODGES, *Clerk.*

24 In the Supreme Court of the District of Columbia.

ARTHUR N. MELOY, Executor of the Estate of Isabella L. Nourse, Deceased, vs. WILLIAM A. MELOY.	}	At Law. No. 46720.
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The President of the United States to William A. Meloy, Greeting :

You are hereby cited and admonished to be and appear at a Court of Appeals of the District of Columbia, upon the docketing the cause therein, under and as directed by the rules of said court, pursuant to an appeal (special) allowed by the Court of Appeals of the District of Columbia, on the 22nd day of June, 1904, wherein Arthur N. Meloy, executor of the estate of Isabella L. Nourse, deceased, is appellant, and you are appellee, to show cause, if any there be, why the judgment rendered against the said appellant, should not be corrected, and why speedy justice should not be done to the parties in that behalf.

Seal Supreme Court of the District of Columbia.	Witness the Honorable Harry M. Cla- baugh, chief justice of the supreme court of the District of Columbia, this 22nd day of June, in the year of our Lord one thousand nine hundred and four.
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JOHN R. YOUNG, *Clerk.*

Service of the above citation accepted this — day of —, 190—.

_____,
Attorney for Appellee.

[Endorsed:] No. 46720. Law. Arthur N. Meloy, executor, vs. William A. Meloy. Citation. Issued June 22d, 1904. Served copy of the within citation on the appellee William A. Meloy June 23, 1904. Aulick Palmer, marshal. S. Cole & Donaldson, attorneys for appellant.

25 *Memorandum.*

June 27, 1904.—\$25, deposited in lieu of appeal bond.

Appellee's Instruction for Transcript.

Filed July 20, 1904.

In the Supreme Court D. C.

A. N. MELOY, Ex'r, &c., }
vs. } No. 46720. Law.
WILLIAM A. MELOY. }

DEAR SIR: Should the att'ys for the plaintiff in this action on their pending appeal omit to direct incorporation in the transcript of the affidavit filed by me on May 20, 1904, in support of my plea and in opposition to their motion for judgment under rule 73, you will please insert the same as of my direction, as "7b."

Resp'y,

WM. A. MELOY, *Prop. Per.*

Jno. R. Young, Esq., clerk, S. C. D. C.

26 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, } ss:
District of Columbia, }

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 25, inclusive, to be a true and correct transcript of the record, as per directions of counsel herein filed, copies of which are made part of this transcript, in cause No. 46,720, at law, wherein Arthur N. Meloy, executor, is plaintiff, and William A. Meloy is defendant, as the same remains upon the files and of record in said court.

In testimony whereof, I hereunto subscribe
Seal Supreme Court my name and affix the seal of said court, at
of the District of the city of Washington, in said District, this
Columbia. 8th day of August, A. D. 1904.

JOHN R. YOUNG, *Clerk*,
By WM. E. WILLIAMS, *Ass't Clerk*.

Endorsed on cover: District of Columbia supreme court. No. 1454. Arthur N. Meloy, executor, &c., appellant, vs. William A. Meloy. Court of Appeals, District of Columbia. Filed Aug. 10, 1904. Henry W. Hodges, clerk.

